

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 448 be amended to read as follows:

- 1 Page 9, between lines 38 and 39, begin a new paragraph and insert:
- 2 "SECTION 5. IC 6-3.5-1.1-8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A special
- 4 account within the state general fund shall be established for each
- 5 county adopting the county adjusted gross income tax. **Subject to**
- 6 **section 9(i) of this chapter**, any revenue derived from the imposition
- 7 of the county adjusted gross income tax by a county shall be deposited
- 8 in that county's account in the state general fund.
- 9 (b) Any income earned on money held in an account under
- 10 subsection (a) becomes a part of that account.
- 11 (c) Any revenue remaining in an account established under
- 12 subsection (a) at the end of a fiscal year does not revert to the state
- 13 general fund.
- 14 SECTION 6. IC 6-3.5-1.1-9, AS AMENDED BY P.L.146-2008,
- 15 SECTION 327, IS AMENDED TO READ AS FOLLOWS
- 16 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Revenue derived from the
- 17 imposition of the county adjusted gross income tax shall, in the manner
- 18 prescribed by this section, be distributed to the county that imposed it.
- 19 The amount to be distributed to a county during an ensuing calendar
- 20 year equals the amount of county adjusted gross income tax revenue
- 21 that the department, after reviewing the recommendation of the budget
- 22 agency, determines has been:
- 23 (1) received from that county for a taxable year ending before the
- 24 calendar year in which the determination is made; and

1 (2) reported on an annual return or amended return processed by  
2 the department in the state fiscal year ending before July 1 of the  
3 calendar year in which the determination is made;  
4 as adjusted (as determined after review of the recommendation of the  
5 budget agency) for refunds of county adjusted gross income tax made  
6 in the state fiscal year.

7 (b) Before August 2 of each calendar year, the department, after  
8 reviewing the recommendation of the budget agency, shall certify to the  
9 county auditor of each adopting county the amount determined under  
10 subsection (a) plus the amount of interest in the county's account that  
11 has accrued and has not been included in a certification made in a  
12 preceding year. The amount certified is the county's "certified  
13 distribution" for the immediately succeeding calendar year. The amount  
14 certified shall be adjusted under subsections (c), (d), (e), (f), (g), and  
15 (h). The budget agency shall provide the county council with an  
16 informative summary of the calculations used to determine the certified  
17 distribution. The summary of calculations must include:

- 18 (1) the amount reported on individual income tax returns  
19 processed by the department during the previous fiscal year;  
20 (2) adjustments for over distributions in prior years;  
21 (3) adjustments for clerical or mathematical errors in prior years;  
22 (4) adjustments for tax rate changes; and  
23 (5) the amount of excess account balances to be distributed under  
24 IC 6-3.5-1.1-21.1.

25 The department shall also certify information concerning the part of the  
26 certified distribution that is attributable to a tax rate under section 24,  
27 25, or 26 of this chapter. This information must be certified to the  
28 county auditor and to the department of local government finance not  
29 later than September 1 of each calendar year. The part of the certified  
30 distribution that is attributable to a tax rate under section 24, 25, or 26  
31 of this chapter may be used only as specified in those provisions.

32 (c) The department shall certify an amount less than the amount  
33 determined under subsection (b) if the department, after reviewing the  
34 recommendation of the budget agency, determines that the reduced  
35 distribution is necessary to offset overpayments made in a calendar  
36 year before the calendar year of the distribution. The department, after  
37 reviewing the recommendation of the budget agency, may reduce the  
38 amount of the certified distribution over several calendar years so that  
39 any overpayments are offset over several years rather than in one (1)  
40 lump sum.

41 (d) The department, after reviewing the recommendation of the  
42 budget agency, shall adjust the certified distribution of a county to  
43 correct for any clerical or mathematical errors made in any previous  
44 certification under this section. The department, after reviewing the  
45 recommendation of the budget agency, may reduce the amount of the  
46 certified distribution over several calendar years so that any adjustment

under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

**(i) This subsection applies to certified distributions for calendar years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:**

**(1) is a member of a fire department (as defined in IC 36-8-1-8) of a city or a member of a police department (as defined in IC 36-8-1-9) of a city; and**

**(2) pays county adjusted gross income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;**

**on the date specified in section 16 of this chapter in a taxable year used by the department to compute a certified distribution to the**

1 county where the city is located. The department, after reviewing  
 2 the recommendation of the budget agency, shall establish a  
 3 procedure for cities to certify the information required by the  
 4 department to allow the department to determine the amount of  
 5 county adjusted gross income tax collected from nonresident  
 6 employees of the city. An amount equal to twenty-five percent  
 7 (25%) of the county adjusted gross income tax attributable to the  
 8 adjusted gross income of the nonresident employee, including taxes  
 9 imposed under section 24, 25, or 26 of this chapter, shall be  
 10 retained from the county adjusted gross income tax that would  
 11 otherwise be deposited in the special account and distributed to the  
 12 county where the nonresident employee is a resident county  
 13 taxpayer. The retained amount shall be maintained in a separate  
 14 account of the county where the city employing the nonresident  
 15 employee as a police officer or firefighter is located and distributed  
 16 separate from the certified distribution of that county. The  
 17 department, after reviewing the recommendation of the budget  
 18 agency, shall certify the amount to be retained and redistributed  
 19 under this subsection to the county auditor of both the county  
 20 where the nonresident employee is a resident county taxpayer and  
 21 the county where the city employing the nonresident employee is  
 22 located as part of the initial certification of each county's certified  
 23 distribution under subsection (b) or as a later separate adjustment  
 24 to the initially certified amount. The amount retained and  
 25 redistributed under this subsection shall not be considered in  
 26 setting any tax rate under this chapter by the county where the  
 27 nonresident employee is a resident county taxpayer. The amount  
 28 redistributed under this subsection must be used for public safety  
 29 purposes.

30 SECTION 7. IC 6-3.5-6-16 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A special  
 32 account within the state general fund shall be established for each  
 33 county that adopts the county option income tax. **Subject to section**  
 34 **17(j) of this chapter**, any revenue derived from the imposition of the  
 35 county option income tax by a county shall be deposited in that county's  
 36 account in the state general fund.

37 (b) Any income earned on money held in an account under  
 38 subsection (a) becomes a part of that account.

39 (c) Any revenue remaining in an account established under  
 40 subsection (a) at the end of a fiscal year does not revert to the state  
 41 general fund.

42 SECTION 8. IC 6-3.5-6-17, AS AMENDED BY P.L.146-2008,  
 43 SECTION 338, IS AMENDED TO READ AS FOLLOWS  
 44 [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Revenue derived from  
 45 the imposition of the county option income tax shall, in the manner  
 46 prescribed by this section, be distributed to the county that imposed it.  
 47 The amount that is to be distributed to a county during an ensuing

1 calendar year equals the amount of county option income tax revenue  
 2 that the department, after reviewing the recommendation of the budget  
 3 agency, determines has been:

4 (1) received from that county for a taxable year ending in a  
 5 calendar year preceding the calendar year in which the  
 6 determination is made; and

7 (2) reported on an annual return or amended return processed by  
 8 the department in the state fiscal year ending before July 1 of the  
 9 calendar year in which the determination is made;

10 as adjusted (as determined after review of the recommendation of the  
 11 budget agency) for refunds of county option income tax made in the  
 12 state fiscal year.

13 (b) Before August 2 of each calendar year, the department, after  
 14 reviewing the recommendation of the budget agency, shall certify to the  
 15 county auditor of each adopting county the amount determined under  
 16 subsection (a) plus the amount of interest in the county's account that  
 17 has accrued and has not been included in a certification made in a  
 18 preceding year. The amount certified is the county's "certified  
 19 distribution" for the immediately succeeding calendar year. The amount  
 20 certified shall be adjusted, as necessary, under subsections (c), (d), (e),  
 21 and (f). The budget agency shall provide the county council with an  
 22 informative summary of the calculations used to determine the certified  
 23 distribution. The summary of calculations must include:

24 (1) the amount reported on individual income tax returns  
 25 processed by the department during the previous fiscal year;

26 (2) adjustments for over distributions in prior years;

27 (3) adjustments for clerical or mathematical errors in prior years;

28 (4) adjustments for tax rate changes; and

29 (5) the amount of excess account balances to be distributed under  
 30 IC 6-3.5-6-17.3.

31 The department shall also certify information concerning the part of the  
 32 certified distribution that is attributable to a tax rate under section 30,  
 33 31, or 32 of this chapter. This information must be certified to the  
 34 county auditor and to the department of local government finance not  
 35 later than September 1 of each calendar year. The part of the certified  
 36 distribution that is attributable to a tax rate under section 30, 31, or 32  
 37 of this chapter may be used only as specified in those provisions.

38 (c) The department shall certify an amount less than the amount  
 39 determined under subsection (b) if the department, after reviewing the  
 40 recommendation of the budget agency, determines that the reduced  
 41 distribution is necessary to offset overpayments made in a calendar  
 42 year before the calendar year of the distribution. The department, after  
 43 reviewing the recommendation of the budget agency, may reduce the  
 44 amount of the certified distribution over several calendar years so that  
 45 any overpayments are offset over several years rather than in one (1)  
 46 lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

**(j) This subsection applies to certified distributions for calendar**

years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:

(1) is a member of a fire department (as defined in IC 36-8-1-8) of a city or a member of a police department (as defined in IC 36-8-1-9) of a city; and

(2) pays county option income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;

on the date specified in section 20 of this chapter in a taxable year used by the department to compute a certified distribution to the county where the city is located. The department, after reviewing the recommendation of the budget agency, shall establish a procedure for cities to certify the information required by the department to allow the department to determine the amount of county option income tax collected from nonresident employees of the city. An amount equal to twenty-five percent (25%) of the county option income tax attributable to the adjusted gross income of the nonresident employee, including taxes imposed under section 30, 31, or 32 of this chapter, shall be retained from the county option income tax that would otherwise be deposited in the special account and distributed to the county where the nonresident employee is a resident county taxpayer. The retained amount shall be maintained in a separate account of the county where the city employing the nonresident employee as a police officer or firefighter is located and distributed separate from the certified distribution of that county. The department, after reviewing the recommendation of the budget agency, shall certify the amount to be retained and redistributed under this subsection to the county auditor of both the county where the nonresident employee is a resident county taxpayer and the county where the city employing the nonresident employee is located as part of the initial certification of each county's certified distribution under subsection (b) or as a later separate adjustment to the initially certified amount. The amount retained and redistributed under this subsection shall not be considered in setting any tax rate under this chapter by the county where the nonresident employee is a resident county taxpayer. The amount redistributed under this subsection must be used for public safety purposes.

SECTION 9. IC 6-3.5-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A special account within the state general fund shall be established for each county adopting the county economic development income tax. **Except as provided in section 11(i) of this chapter**, any revenue derived from the imposition of the county economic development income tax by a county shall be credited to that county's account in the state general fund.

(b) Any income earned on money credited to an account under

subsubsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year may not be credited to any other account in the state general fund.

SECTION 10. IC 6-3.5-7-11, AS AMENDED BY P.L.146-2008, SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year.

(c) The amount certified **under subsection (b)** shall be adjusted under subsections ~~(c)~~, (d), (e), (f), ~~and~~ (g), **and (h)**. The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

~~(c)~~ **(d)** The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that



any overpayments are offset over several years rather than in one (1) lump sum.

~~(d)~~ (e) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

~~(e)~~ (f) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

~~(f)~~ (g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

~~(g)~~ (h) This subsection applies to a county that:

(1) initially imposed the county economic development income tax; or

(2) increases the county economic development income rate; under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection ~~(c)~~: (d).

**(i) This subsection applies to certified distributions for calendar years beginning after December 31, 2009. As used in this subsection, "nonresident employee" refers to an individual who:**

**(1) is a member of a fire department (as defined in IC 36-8-1-8) of a city or a member of a police department (as defined in IC 36-8-1-9) of a city; and**

**(2) pays county economic development income tax to a county other than the county in which the city is located because the individual qualified as a resident county taxpayer of the other county;**

**on the date specified in section 17 of this chapter in a taxable year used by the department to compute a certified distribution to the county where the city is located. The department, after reviewing the recommendation of the budget agency, shall establish a procedure for cities to certify the information required by the**

department to allow the department to determine the amount of county economic development income tax collected from nonresident employees of the city. An amount equal to twenty-five percent (25%) of the county economic development income tax attributable to the adjusted gross income of the nonresident employee, including any additional tax under section 26 of this chapter, shall be retained from the county economic development income tax that would otherwise be deposited in the special account and distributed to the county where the nonresident employee is a resident county taxpayer. The retained amount shall be maintained in a separate account of the county where the city employing the nonresident employee as a police officer or firefighter is located and distributed separate from the certified distribution of that county. The department, after reviewing the recommendation of the budget agency, shall certify the amount to be retained and redistributed under this subsection to the county auditor of both the county where the nonresident employee is a resident county taxpayer and the county where the city employing the nonresident employee is located as part of the initial certification of each county's certified distribution under subsection (b) or as a later separate adjustment to the initially certified amount. The amount retained and redistributed under this subsection shall not be considered in setting any tax rate under this chapter by the county where the nonresident employee is a resident county taxpayer. The amount redistributed under this subsection must be used for public safety purposes."

Page 13, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 19. IC 36-8-4-2, AS AMENDED BY P.L.65-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Members of the police and fire departments must reside in Indiana within

(1) the county in which the city is located. or

(2) a county that is contiguous to the county in which the city is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) An individual to whom subsection (b) does not apply and who serves as a member of a city police or city fire department and resides outside the city that the individual serves on June 30, 2009, may reside in:

(1) the county in which the city is located; or

(2) a county that is contiguous to the county in which the city is located;

after June 30, 2009, as long as the individual continues to serve as a member of the same city police or fire department.

(d) A city with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the

- 1 city's police or fire department to comply with the following:
- 2 (1) Reside within the county in which the city is located.
- 3 (2) Have adequate means of transportation into the city.
- 4 (3) Maintain in the member's residence telephone service with the
- 5 city.
- 6 ~~(d)~~ (e) This subsection applies to a city that:
- 7 (1) has a population of less than seven thousand five hundred
- 8 (7,500); and
- 9 (2) adopted an ordinance to establish the requirements described
- 10 in this subsection before September 1, 1984.
- 11 A city may require, in addition to the requirements of subsection ~~(c)~~;
- 12 (d), that a member of the police or fire department reside within the
- 13 city until the member has served in the department for five (5) years.
- 14 ~~(c)~~ (f) An ordinance adopted under subsection ~~(c)~~ (d) or described
- 15 in subsection ~~(d)~~ (2) (e)(2) may not require a member of a city's police
- 16 or fire department **who was a member of the city's police or fire**
- 17 **department before July 1, 2009**, to reside within the county in which
- 18 the city is located if the member resides outside the county on the date
- 19 the ordinance is adopted."
- 20 Renumber all SECTIONS consecutively.  
(Reference is to ESB 448 as printed April 10, 2009.)

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Representative Crawford